



County of Fairfax, Virginia

July 18, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-PR-029

PROVIDENCE DISTRICT

APPLICANT/OWNER: James W. Seaman

ADDITIONAL OWNER: Gloria C. Seaman

STREET ADDRESS: 2759 Marshall Street, Falls Church, 22042

SUBDIVISION: Greenway Downs

TAX MAP REFERENCE: 50-2 ((4)) 6

LOT SIZE: 6,250 square feet

ZONING DISTRICT: R-4, HC

ZONING ORDINANCE PROVISION: 8-914 and 8-922

SPECIAL PERMIT PROPOSALS: To permit reduction to minimum yard requirements based on error in building location to permit a reduction in minimum yard requirements based on an error in building location to permit a deck to remain 7.0 ft. from side lot line, accessory structure to remain 4.9 ft. from side lot line and 3.2 ft. from rear lot line, second accessory structure to remain 6.9 ft. from rear lot line and 6.6 ft. from side lot line and to permit reduction of certain yard requirements to permit construction of an addition (roofed porch) 15.8 ft. from front lot line and 7.8 ft. from side lot line

STAFF RECOMMENDATION: Staff recommends approval of SP 2012-PR-029 for an addition with adoption of the proposed development conditions contained in Appendix 1.

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B. Cho

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

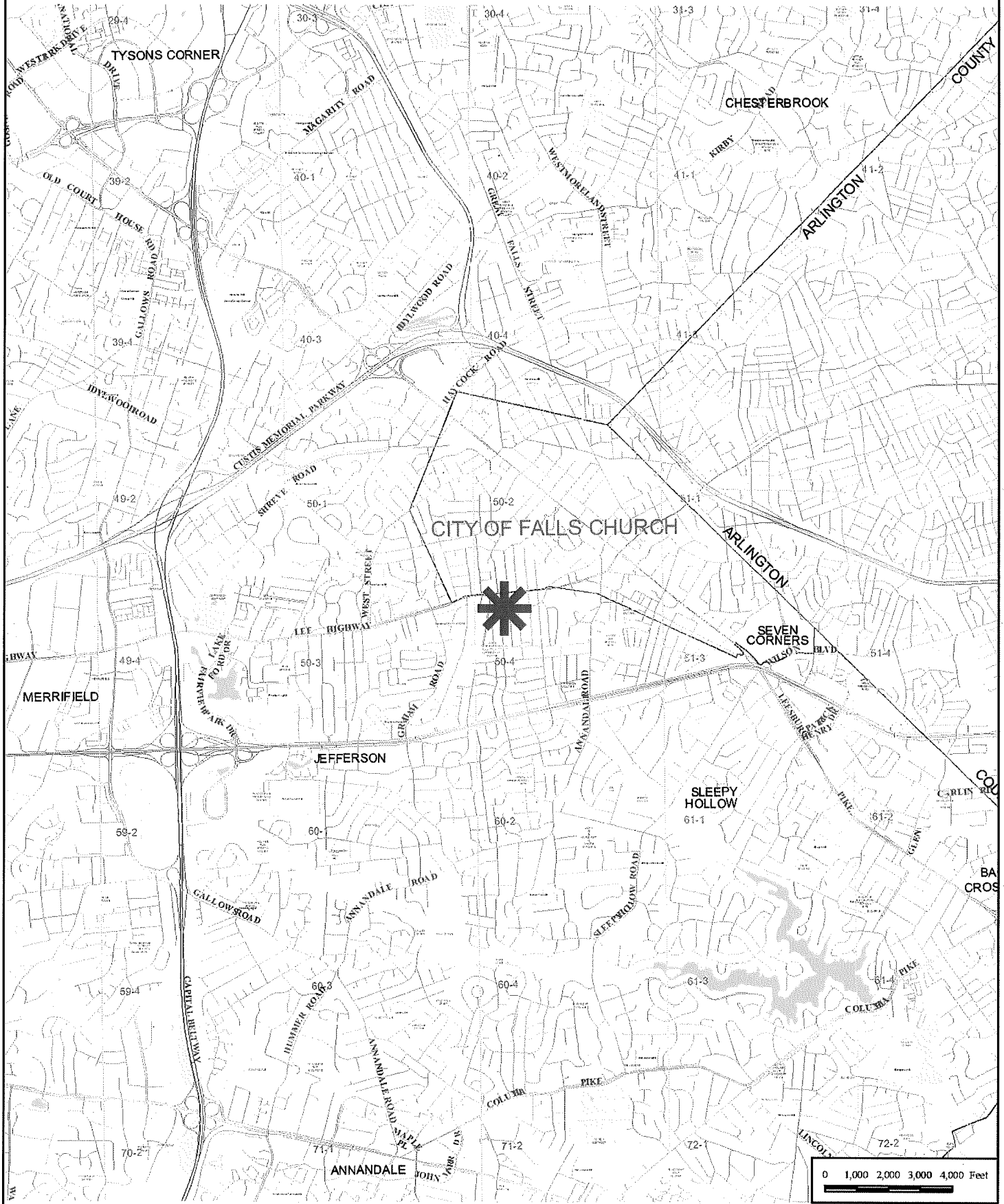


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

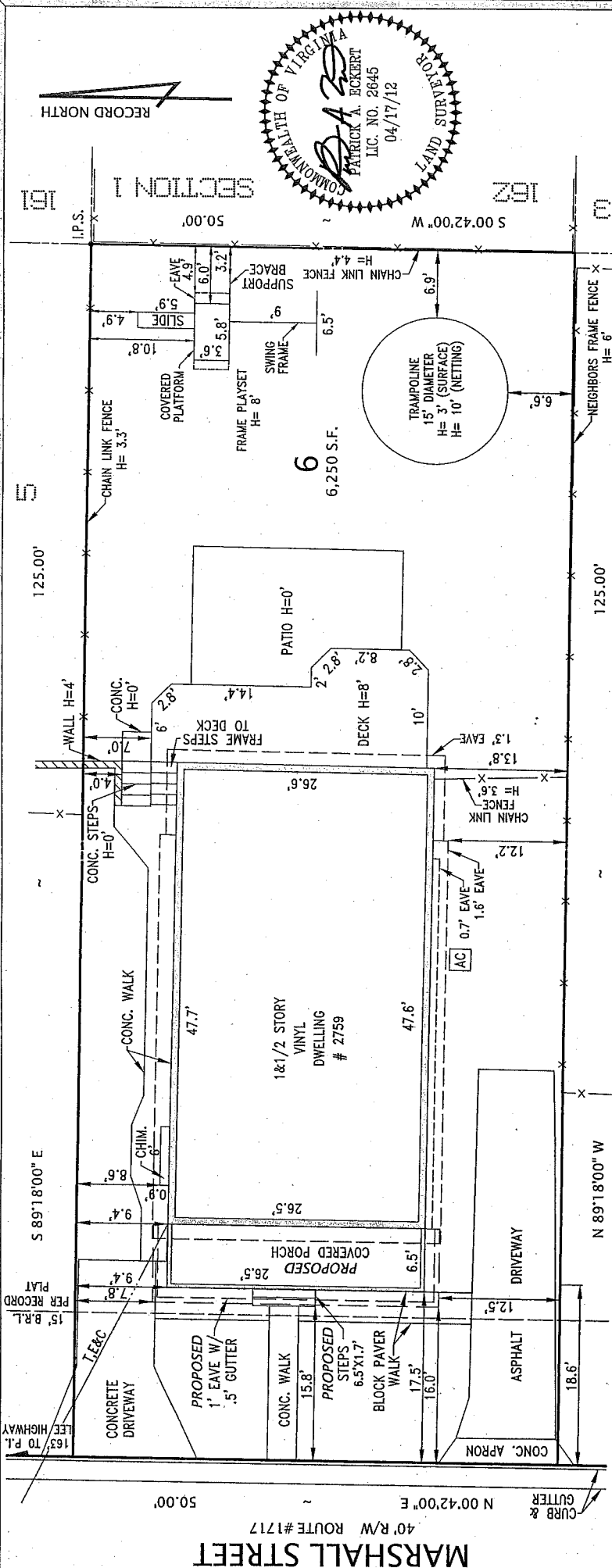
SP 2012-PR-029

JAMES W. SEAMAN



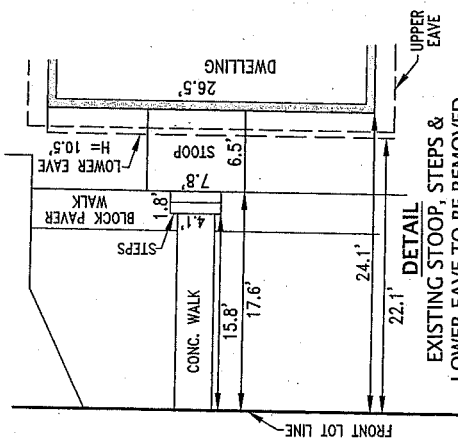
JAMES W. SEAMAN





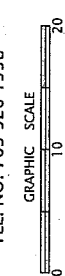
NOTES

1. TAX MAP: 0502 04 0006 ZONE: R-4
2. PROPERTY SERVED BY PUBLIC WATER AND SEWER.
3. NO UTILITY EASEMENTS 25 FEET WIDE OR GREATER WERE FOUND ON THIS PROPERTY.
4. THERE ARE NO FLOOD PLAIN OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
5. NO GRAVE SITES OR BURIAL GROUNDS WERE FOUND ON THIS PROPERTY.
6. MINIMUM YARDS REQUIRED:
FRONT 30 FEET
SIDE 10 FEET
REAR 25 FEET
7. HEIGHTS:
DWELLING 22 FEET
PROPOSED PORCH 12 FEET
FENCES, DECKS, ETC. AS SHOWN
8. APPROXIMATE FLOOR AREAS:
EXISTING DWELLING 1,734 SQUARE FEET
PROPOSED PORCH 172 SQUARE FEET
THE FLOOR AREA OF THE PROPOSED PORCH EQUALS 9.9% OF THE EXISTING FLOOR AREA.
FAR: EXISTING 0.277 PROPOSED 0.305
9. PORTION OF FRONT YARD COVERED BY DRIVEWAY:
EXISTING 33% (REQUIREMENT NOT MORE THAN 30%)
EXCESS DRIVEWAY APPEARS TO PREDATE THE CURRENT REGULATION.
10. IMPROVEMENTS SHOWN ON THIS PLAN ARE EXISTING UNLESS NOTED AS PROPOSED.
11. THE SMALL SHRUBS ALONG THE FRONT WALL OF THE DWELLING ARE TO BE REMOVED. THERE ARE NO OTHER PLANNED CHANGES TO VEGETATION.



SPECIAL PERMIT PLAT
 LOT 6 SECTION 2
GREENWAY DOWNS
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 10' FEBRUARY 20, 2012

ALTERA SURVEYS, INC.
 11216 WAPLES MILL ROAD #102
 FAIRFAX, VIRGINIA 22030
 TEL. NO. 703-520-1558

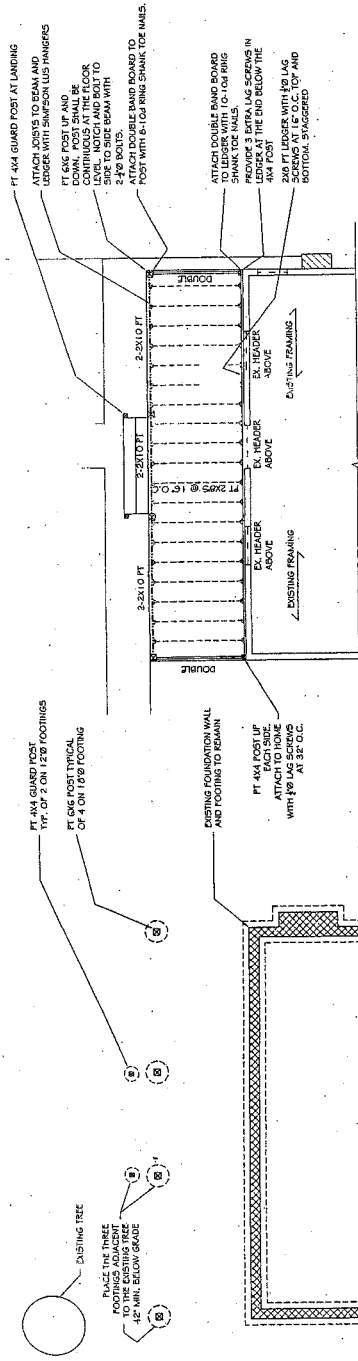


REVISED
 MARCH 28, 2012 - ADDED PLAYSET
 APRIL 14, 2012 - ADDED TRAMPOLINE

[illegible]

Structural Notes

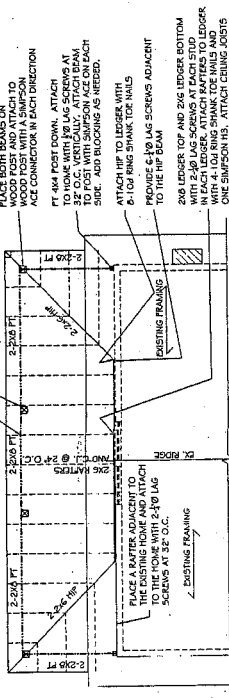
- [illegible]



Foundation Plan

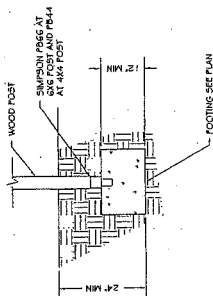
Scale: $\frac{1}{2}'' = 1'-0'' \pm$

First Floor Framing Plan

Scale: $\dot{V} = 1^{\circ}/\text{s}$ 

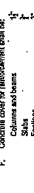
Roof Framing Plan

Revised 10-1-1981



Typical Wood Post to Footing Detail

21



Phoenix Home Services
9141 Schoolcraft Lane
Burke, VA 22015
703-725-7945

No.	Revision / Issue	Date
01	Sheet Change	9-23-11

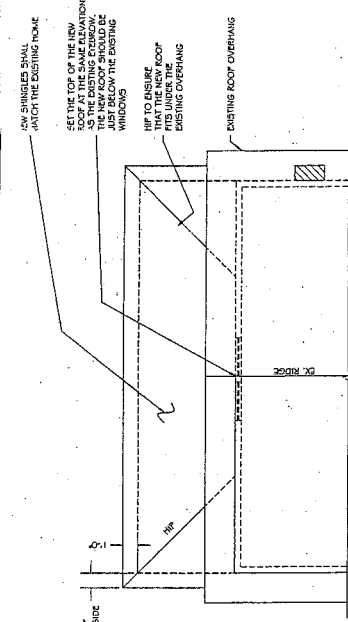
7759 Marshall Street
Falls Church, VA 22042

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Department of Planning & Design
SEP 28 2011
Zachry Construction Services

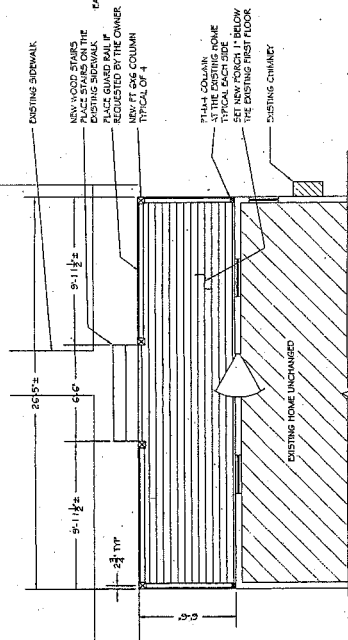
New Front Porch

A1

Drawn By: RAV
Date: 3-10-11
Scale: As Noted

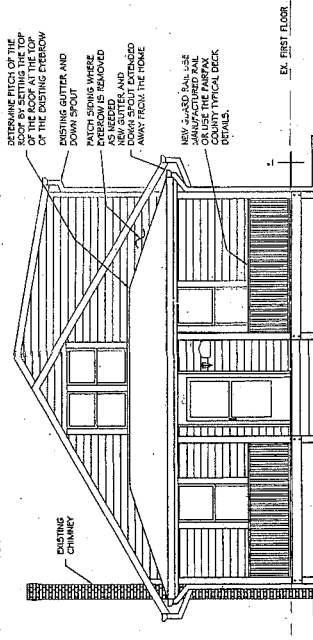


Roof Plan
Scale: 1/4" = 1'-0"



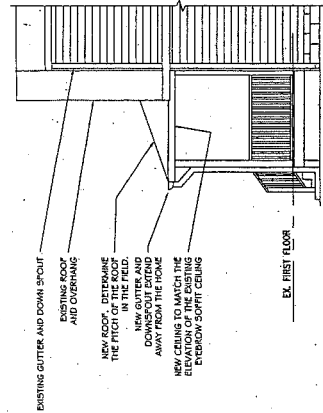
Front Porch Plan
Scale: 1/4" = 1'-0"

- NOTES:
1. CONTRACTOR SHALL LAYOUT TO THE STAIRS IN THE FIELD TO CONFORM TO THE EXISTING SIDEWALK. THE EXISTING SIDEWALK SHALL BE MAINTAINED AND NOT REMOVED. CONTRACTOR SHALL DETERMINE THE EXACT NUMBER OF RISERS AND TREADS AND ADJUST THE LAYOUT ACCORDINGLY.
 2. PLEASE SEE THE FANPAX COUNTY TYPICAL DETAILS FOR ITEMS NOT SHOWN ON THESE PLANS.

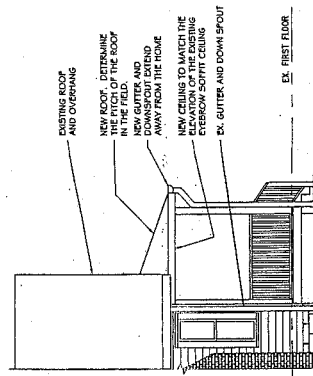


Left Elevation
Scale: 1/4" = 1'-0"

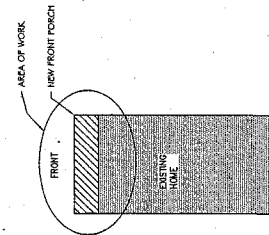
Front Elevation
Scale: 1/4" = 1'-0"



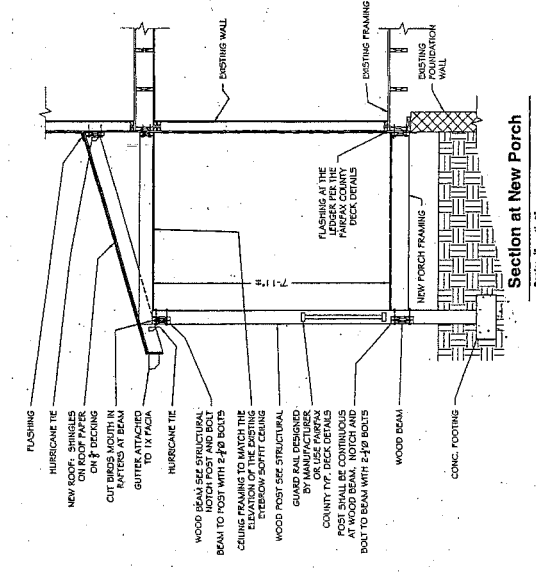
Right Elevation
Scale: 1/4" = 1'-0"



Demolition Plan
Scale: 1/4" = 1'-0"



Key Plan
Scale: NTS



Section at New Porch
Scale: 1/4" = 1'-0"

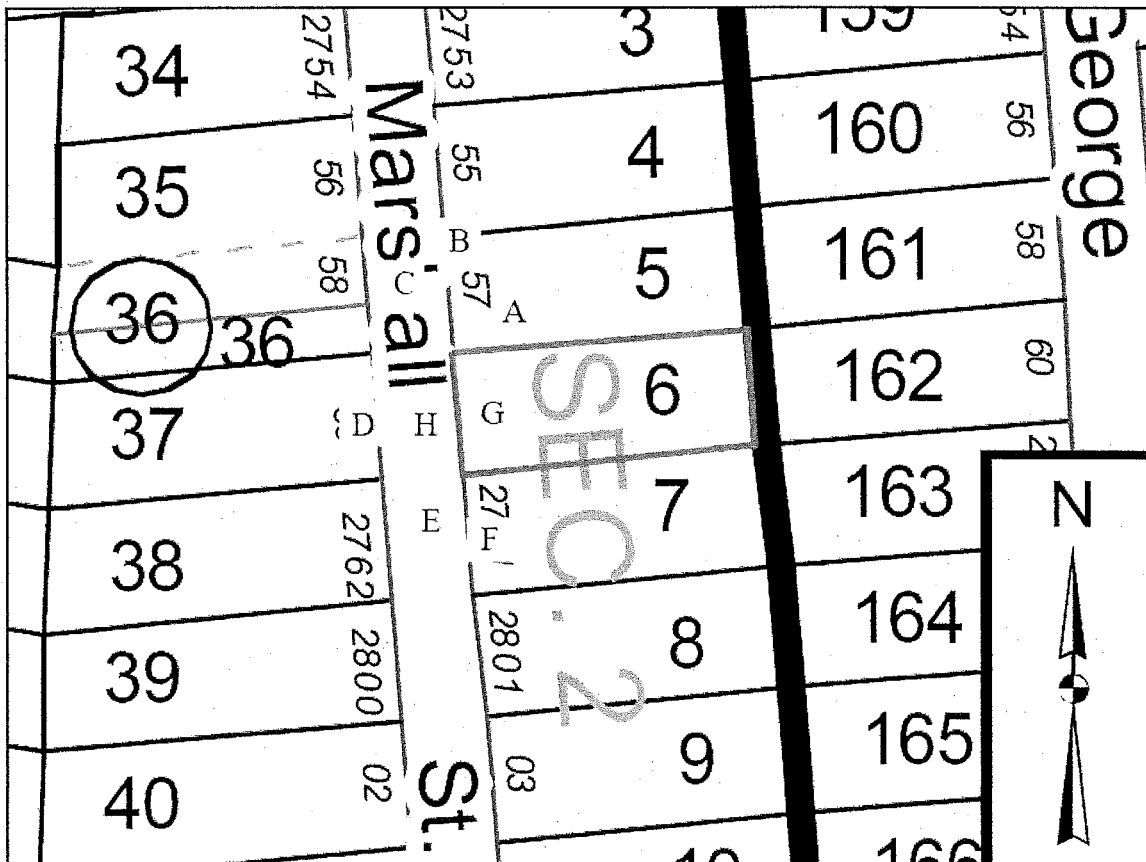
Sept. 28, 2011

Date of submission: September 28, 2011

The following photographs were taken on September 14, 2011 of the application property, 2759 MARSHALL ST., FALLS CHURCH, VA 22042

Photograph key:

2759 MARSHALL ST is outlined in red, photograph vantage points are highlighted in yellow.



RECEIVED
Department of Planning & Zoning

SEP 28 2011

Zoning Evaluation Division

A: Looking at house, NW corner of property.



B: Looking at house, NW corner of property



Sept. 28, 2011

C: Looking at house, NW corner of property



D: Looking at house, front façade. NOTE: Existing front porch.



E: Looking at house, SW corner of property



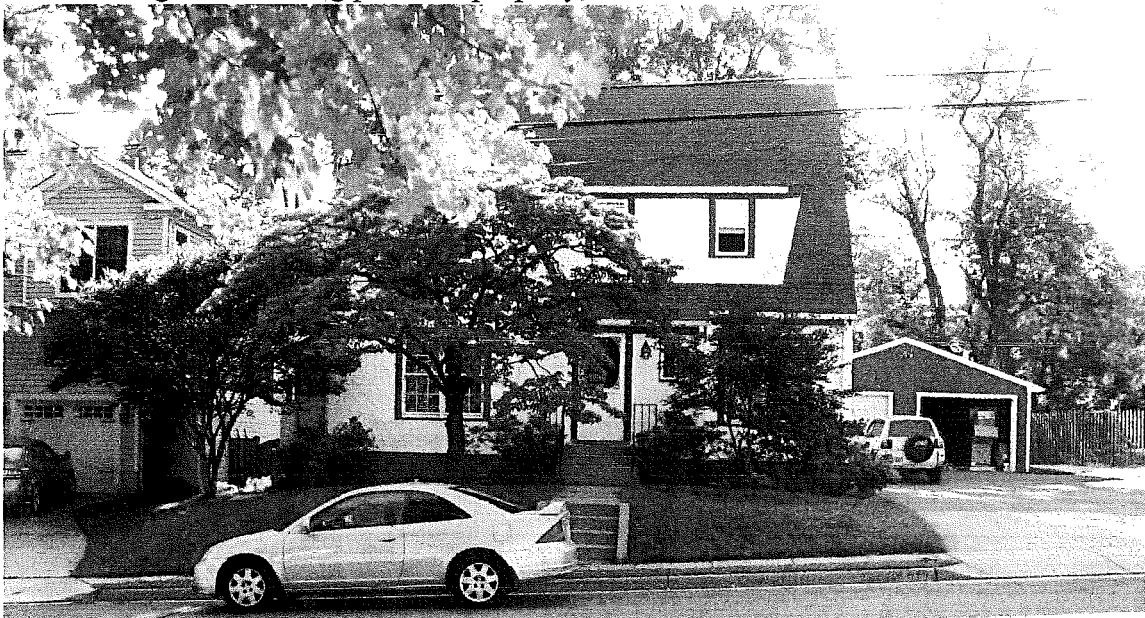
F: Looking at house, SW corner of property



G-1: Looking from existing porch on property, SW



G-2: Looking from existing porch on property, W



H-2: Looking from street in front of property, N



March 5, 2012

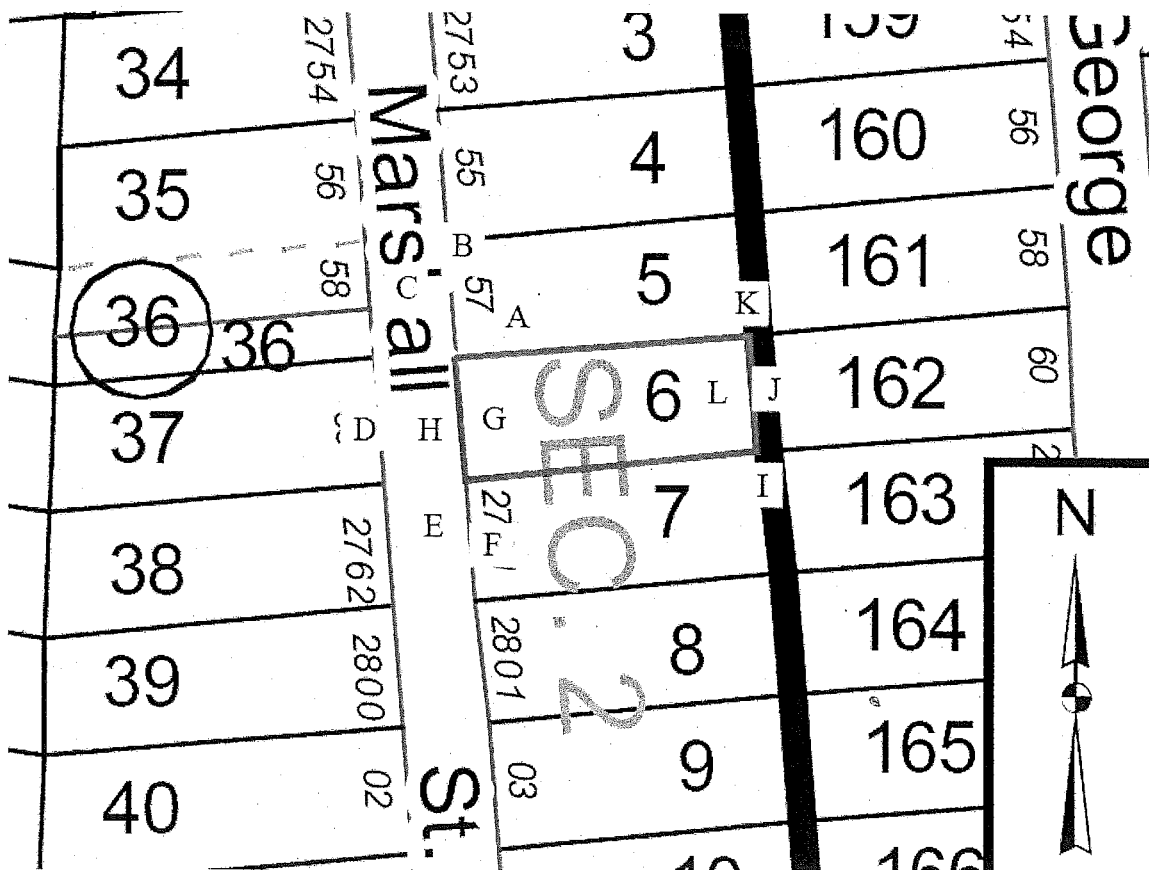
Date of submission: March 5, 2012

The following photographs were taken of the application property, 2759 MARSHALL ST., FALLS CHURCH, VA 22042

We have added photos to this package per Item 3.00 in Checklist Report for SP 2011-0258 dated October 6, 2011.

Photograph key:

2759 MARSHALL ST property is outlined in red, photograph vantage points are highlighted in yellow.



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Department of Planning & Zoning

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Zoning Evaluation Division

A: Looking at house, NW corner of property



B: Looking at house, NW corner of property



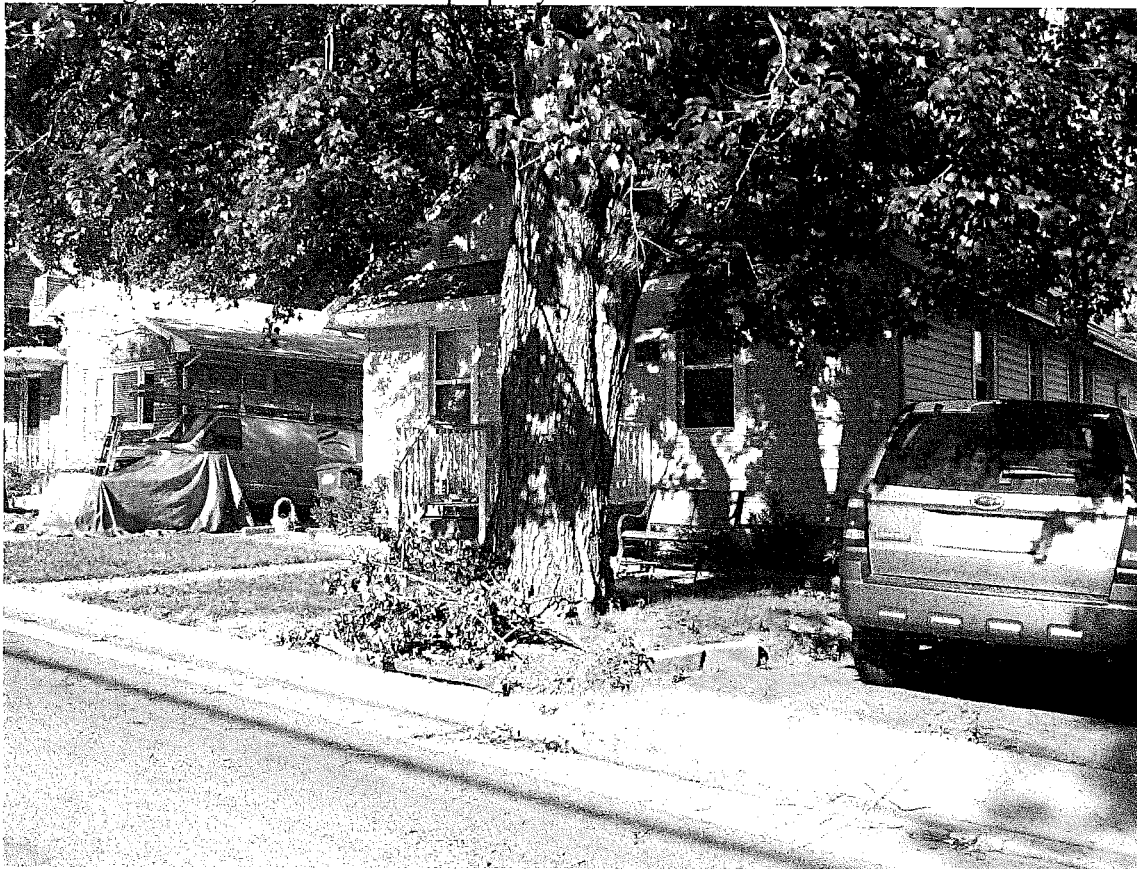
C: Looking at house, NW corner of property



D: Looking at house, front façade. NOTE: Existing front porch



E: Looking at house, SW corner of property



F: Looking at house, SW corner of property

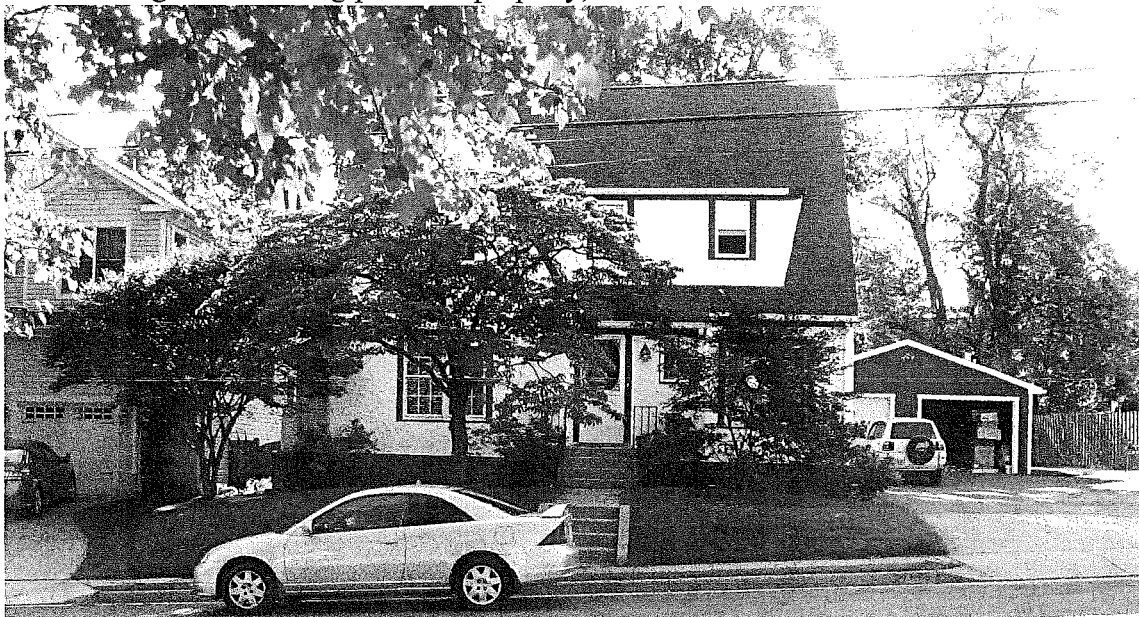


March 5, 2012

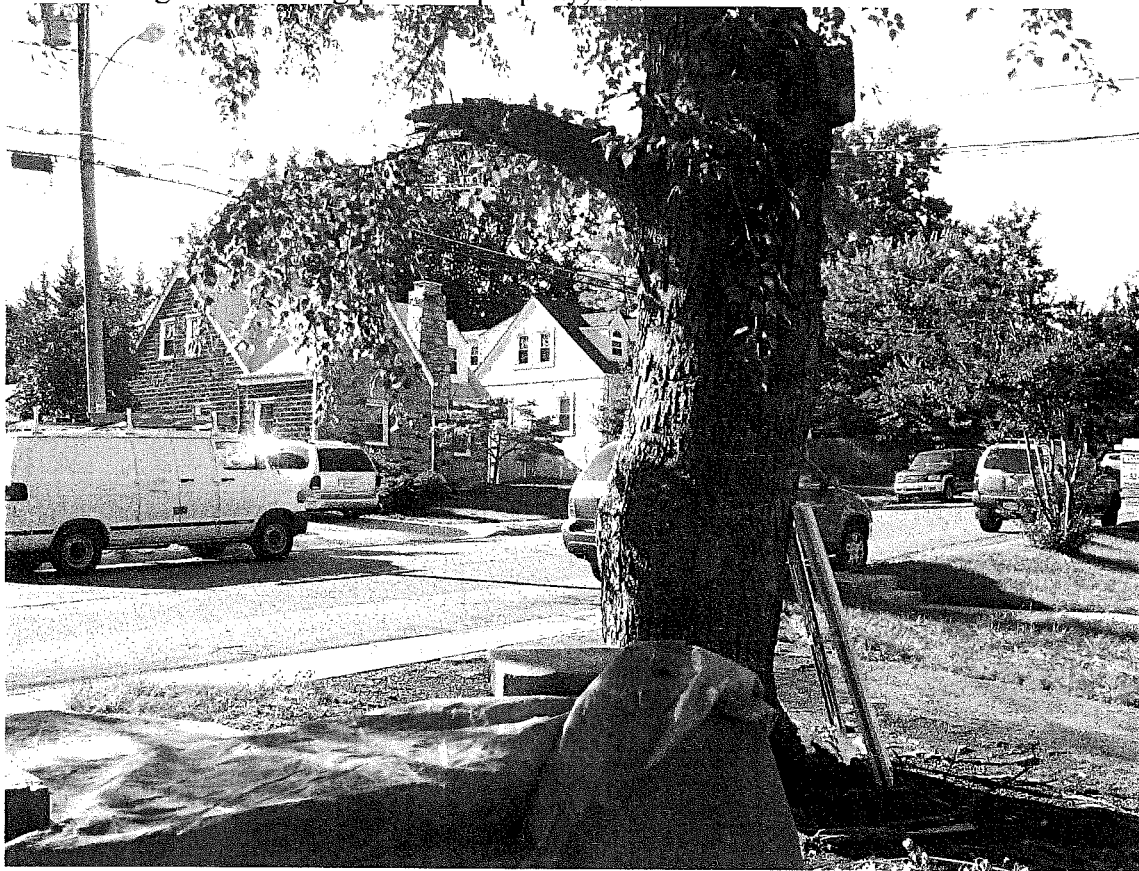
G-1: Looking from existing porch on property, SW



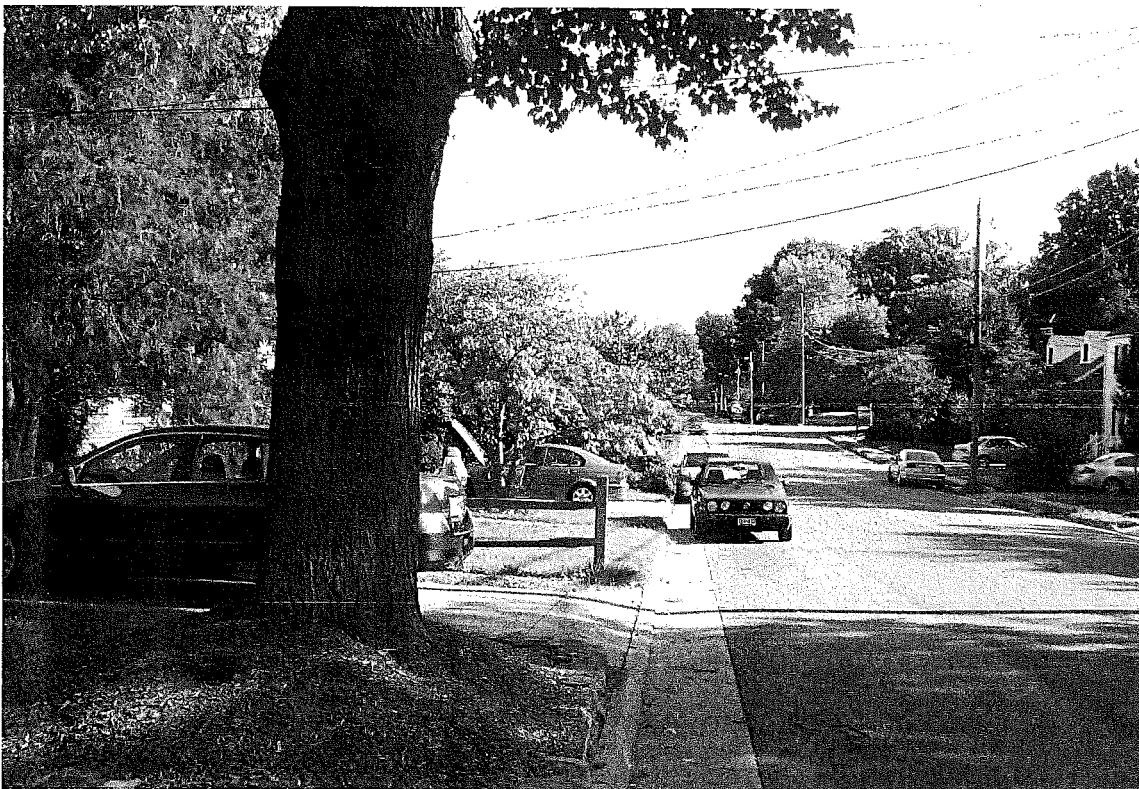
G-2: Looking from existing porch on property, W



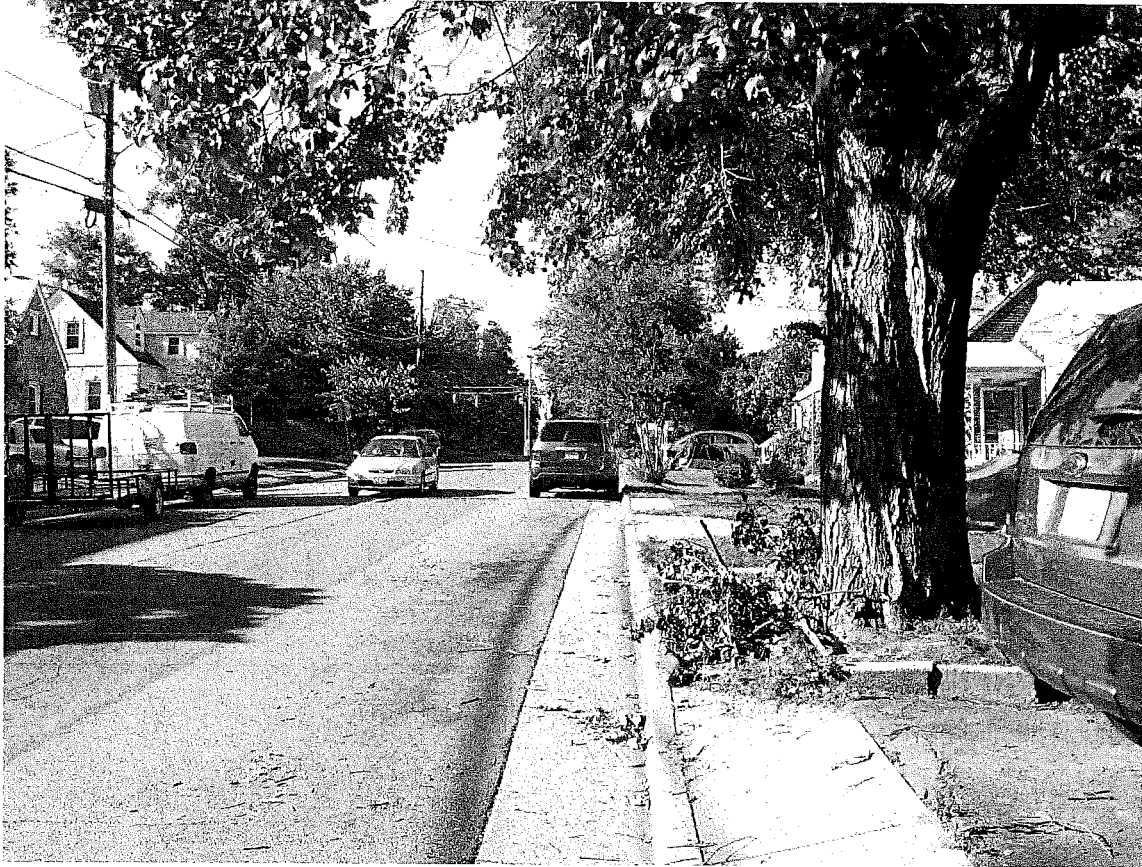
G-3: Looking from existing porch on property, NW



H-1: Looking from street in front of property, S



H-2: Looking from street in front of property, N



I: Looking from rear of property (SE corner), S side of house



J: Looking from rear-center of property, E side of house

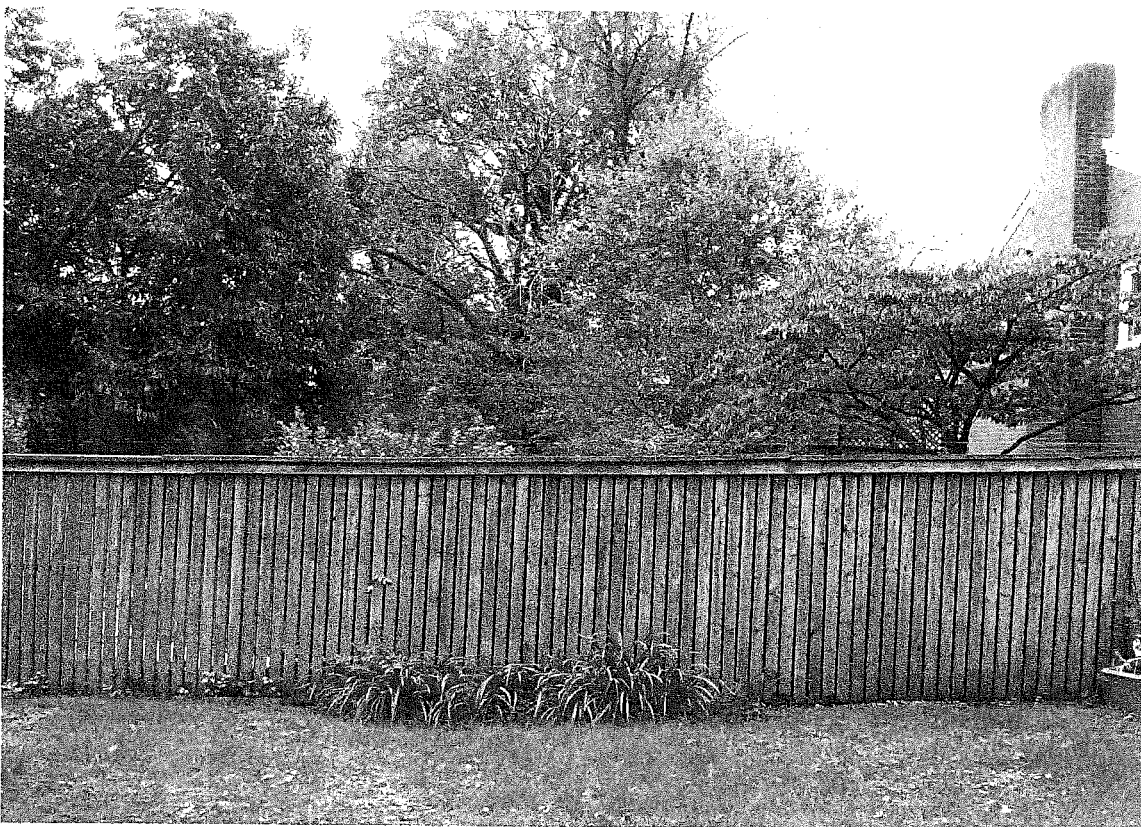


March 5, 2012

K: Looking from rear of property (NE corner), N side of house



L1: Looking from center of back yard, S property line and abutting property



L2: Looking from center of back yard, SE corner of property and adjacent property



L3: Looking from center of back yard, E property line and abutting property



L4: Looking from center of back yard, NE corner of property and adjacent property



L5: Looking from center of back yard, N property line and abutting property



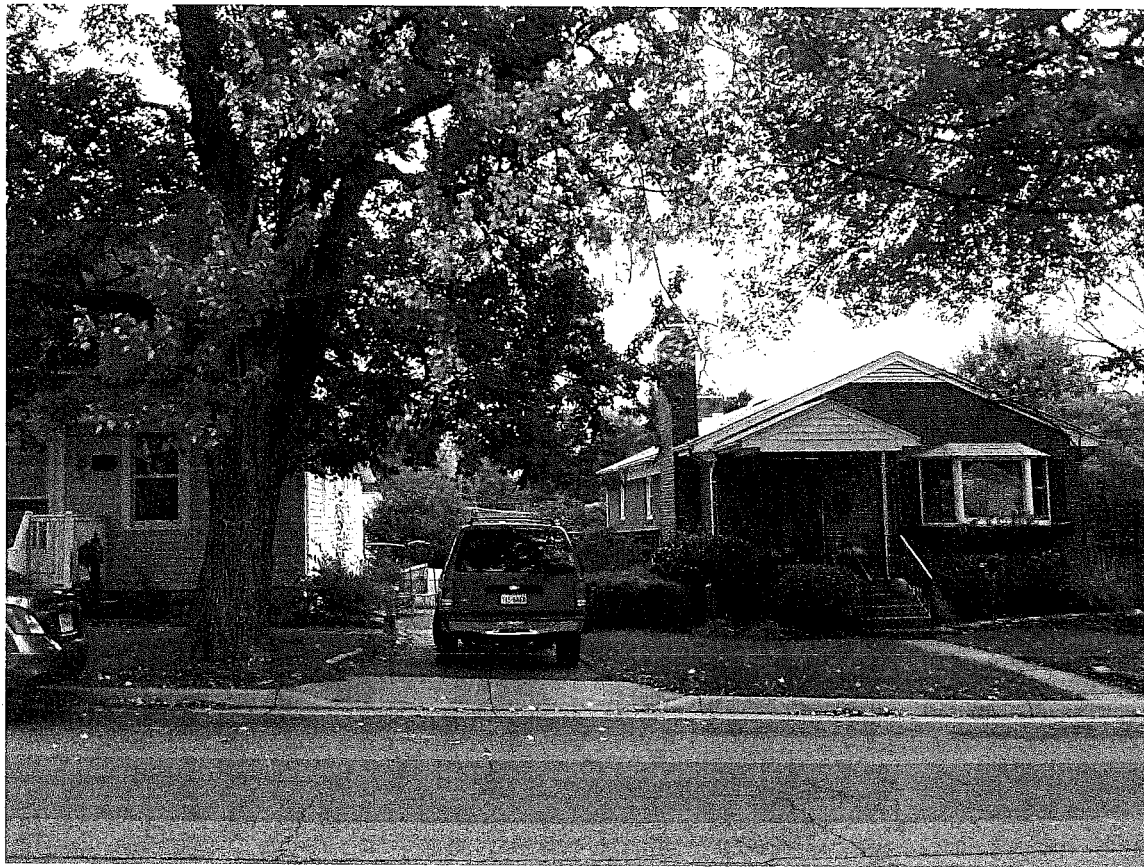
Wide views of abutting properties taken from street in front of house:
C2: North abutting property from street

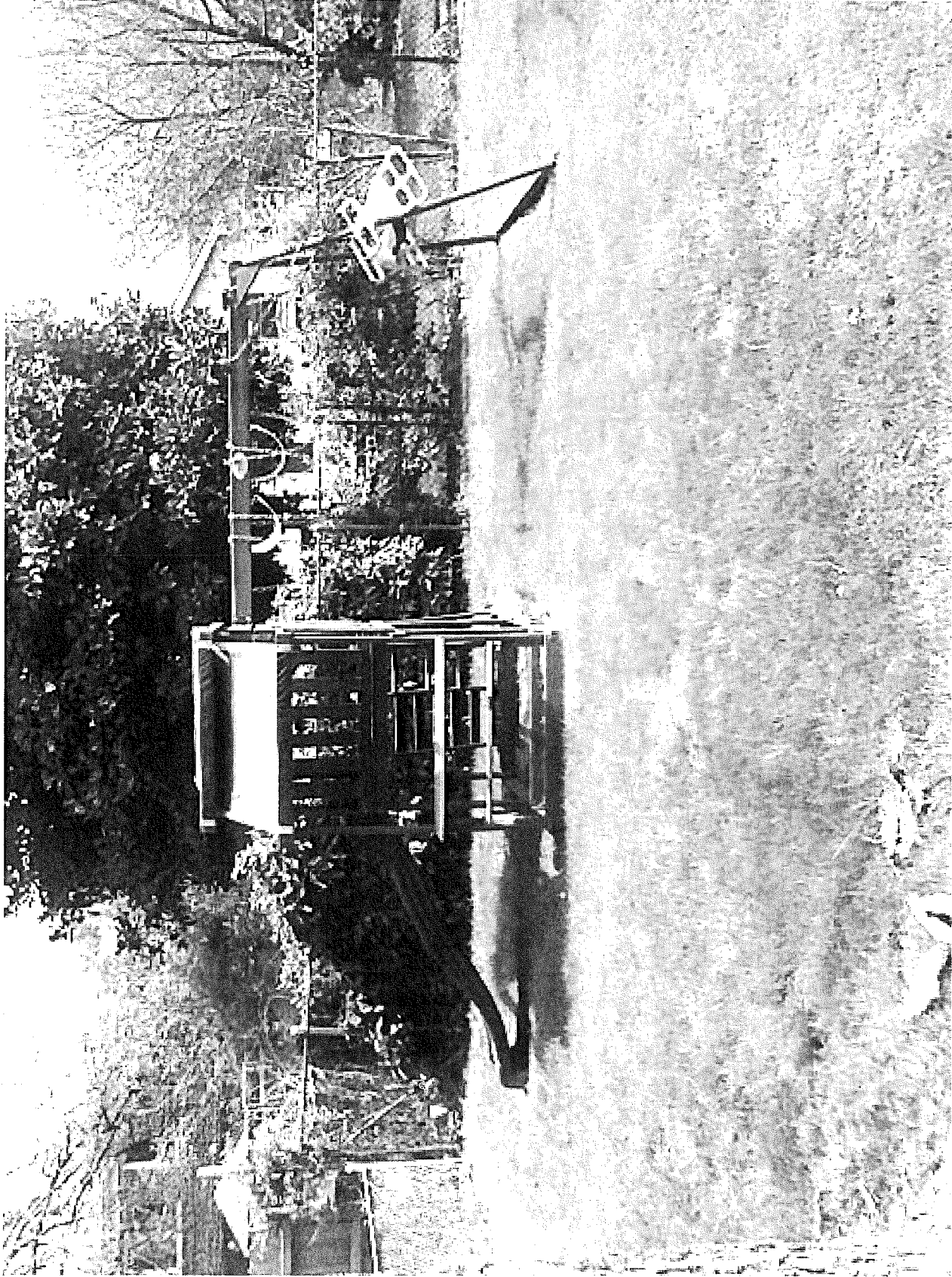


D2: Wide view of 2759 Marshall St. from front

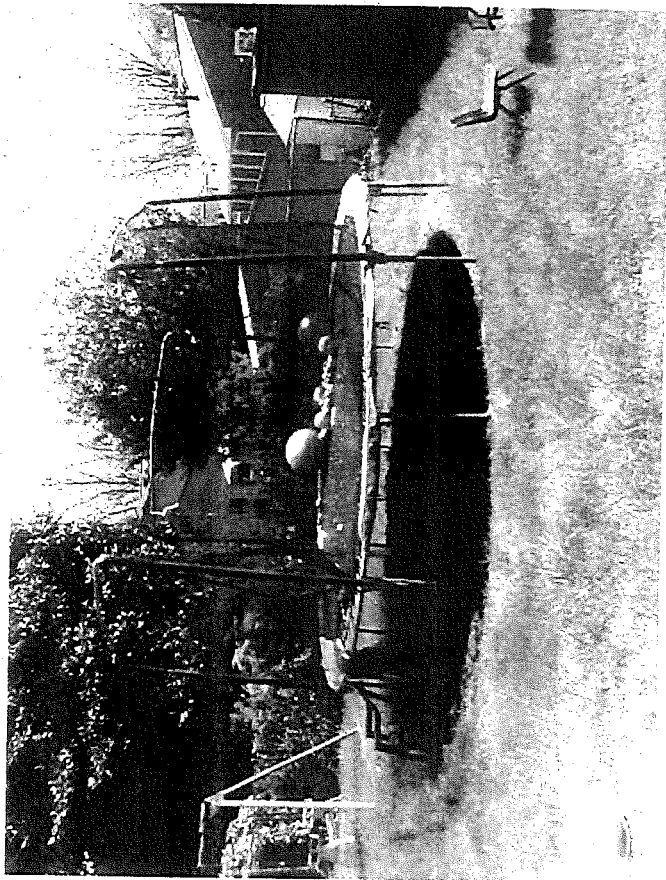


E2: South abutting property from street



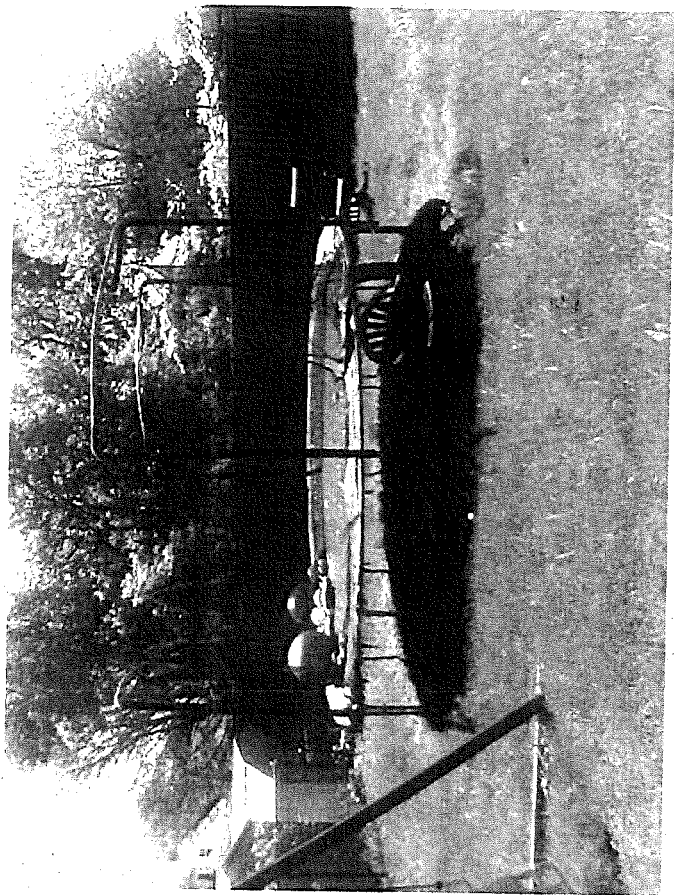


2757 Marshall St 3/28/2012
Playset in rear yard.



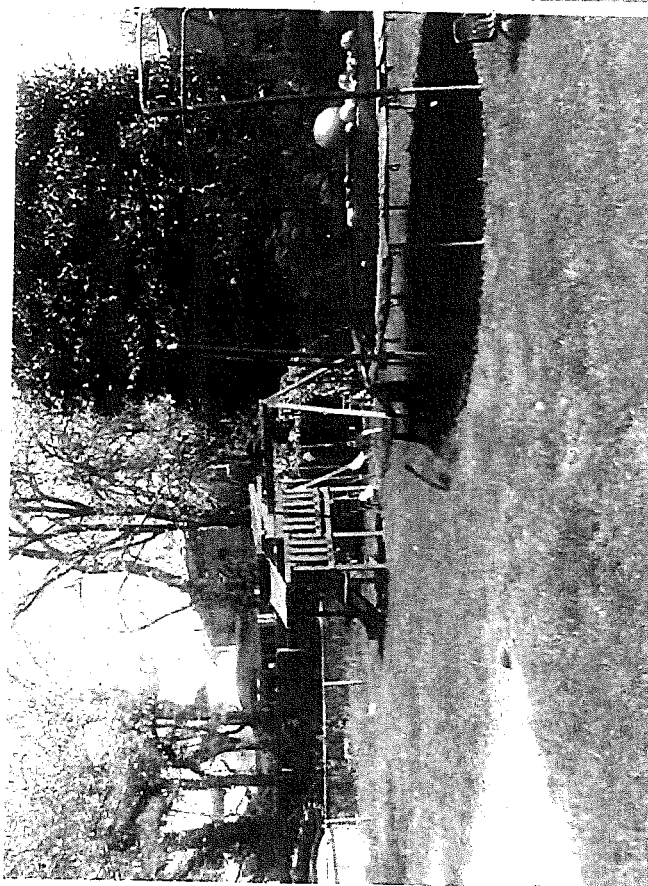
Camera facing east

4/13/2012



Camera facing south

4/13/2012



Camera facing northeast

4/13/2012



Camera facing northwest

4/13/2012

DESCRIPTION OF THE APPLICATIONS

The applicant is requesting approval of a special permit for a reduction to minimum yard requirements based on errors in building locations to permit 1) a deck to remain 7.0 ft. from the northern side lot line, 2) an accessory structure (play equipment), which is 8 feet in height, to remain 4.9 ft. from the northern side lot line and 3.2 ft. from the rear lot line, and 3) a second accessory structure (trampoline), which is 10 feet in height, to remain 6.9 ft. from the rear lot line and 6.6 ft. from southern side lot line.

	Structure	Yard	Min. Yard*	Structure Location	Amount of Error	Percent of Error
Special Permit #1	Deck	North Side	10 feet	7.0 feet	3.0 feet	35%
Special Permit #2	Accessory Structure (Play Equipment)	North Side	10.0 feet	4.9 feet	5.1 feet	52%
Special Permit #2	Accessory Structure (Play Equipment)	Rear	8.0 feet	3.2 feet	4.8 feet	60%
Special Permit #3	Accessory Structure (Trampoline)	South Side	10.0 feet	6.6 feet	3.4 feet	34%
Special Permit #3	Accessory Structure (Trampoline)	Rear	10.0 feet	6.9 feet	feet	31%

** Par. 2 of Sect. 2-412 states that any open deck with any part of its floor higher than 4 feet above finished ground level cannot extend into the minimum required side yard. Par. 12 of Sect. 10-104 states that accessory structures which exceed 7 feet in height cannot be located in any minimum required side yard and must be located at a distance equal to its height from the rear lot line.*

The applicants are also requesting approval of a special permit for a reduction of certain yard requirements to allow the construction of an addition (roofed porch) 15.8 ft. from front lot line and 7.8 ft. from side lot line.

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	Addition (Roofed Porch)	Front	30.0 feet	15.8 feet	14.2 feet	47%
Special Permit	Addition (Roofed Porch)	Side	10.0 feet	7.8 feet	2.2 feet	22%

*Minimum yard requirement per Section 3-407

EXISTING SITE DESCRIPTION

The application site measures 6,250 square feet in area and is zoned R-4 and HC. The site is developed with a one and a half story with a vinyl single-family detached dwelling which was originally constructed in 1928. The existing dwelling measures 1,734 square feet in area and 22 feet in height. A concrete walkway connects the front of the house to the front lot line. There is an asphalt driveway and a concrete driveway in the front yard, which cover 33% of the front yard, both of which existed prior to the limitation on front yard coverage. A concrete walkway is built along the (north) side of the house between the concrete driveway and the rear yard. The grade slopes down from the front lot line to the rear lot line. At the rear of the house, there is a deck, which measures 8 feet in height, with stairs, and below the deck, there is a patio at grade. There are two play structures, including a trampoline, in the rear yard, and the rear yard is landscaped with grass and shrubs with a large mature tree near the patio. Chain link and wood frame fencing between 3.6 to 6 feet in height surround the rear yard.

CHARACTER OF THE AREA

	Zoning	Use
North	R-4 and HC	Single Family Detached Dwelling
South	R-4 and HC	Single Family Detached Dwelling
East	R-4 and HC	Single Family Detached Dwelling
West	R-4 and HC	Single Family Detached Dwelling

BACKGROUND

A building permit was issued and finalized for the deck in 2007 (see Statement of Justification). A copy of the approved plan was not found in County files.

Following the adoption of the current Ordinance, the BZA has heard the following variances in the vicinity of the application parcel:

- Variance VC 83-P-117 was approved on October 4, 1983 for Tax Map 50-4 ((4)) 31, zoned R-4, at 2841 Cameron Road, to allow construction of a second story addition to existing dwelling 7.5 feet from one side lot line and 8.4 feet from other side lot line.
- Variance VC 01-P-063 was approved on July 11, 2001 for Tax Map 50-2 ((4)) 109, zoned R-4, at 2829 Woodlawn Avenue, to permit construction of a second story addition 21.9 feet from front lot line and 7.3 foot high fence to remain in the rear yard.
- Variance VC 01-P-064 was approved on July 18, 2001 for Tax Map 50-2 ((4)) 111, zoned R-4, at 2835 Woodlawn Avenue, to permit construction of a second story addition 9.1 feet from a side lot line.
- Variance VC 91-P-067 was approved on August 14, 1991 for Tax Map 50-2 ((4)) 46, zoned R-4, at 2757 Woodlawn Avenue, to permit construction of addition 15.1 feet from front lot line and 9.8 feet from a side lot line.
- Variance VC 97-P-029 was approved on June 4, 1997 for Tax Map 50-2 ((4)) 10, zoned R-4, at 2805 Marshall Street, to permit construction of addition 7.3 feet from a side lot line.
- Variance VC 99-P-126 was approved on December 15, 1999 for Tax Map 50-2 ((4)) 65, zoned R-4, at 2834 Marshall Street, to permit construction of additions 8.0 feet from a side lot line and 22.5 feet from front lot line.
- Variance VC 2003-PR-128 was approved on November 4, 2003 for Tax Map 50-2 ((4)) 51, zoned R-4, at 2807 Woodlawn Avenue, to permit construction of a second story addition 7.4 feet with eave 6.4 feet from both side lot lines.

ANALYSIS

- **Special Permit Plat** (Copy at front of staff report)
- **Title of Plat:** Special Permit Plat, Lot 6, Section 2, Greenway Downs
- **Prepared by:** Alterra Surveys, Inc., dated February 20, 2012, revised through April 14, 2012 and sealed on April 17, 2012

Proposal:

The applicant proposes to construct a covered porch at the front of the single family detached dwelling. The porch will measure 6.5 feet in width and 26.5 feet in length, which is approximately 172 square feet in area. The proposed length of the porch will run the length of the existing dwelling. The proposed square footage of the porch is not counted towards the total gross floor area of the dwelling. The porch will be constructed out of wood and wood composite materials and will be designed with post columns, railings and a shingled roof. A couple of stairs will extend down the front of the porch to an existing concrete walkway.

The applicant also proposes to keep an existing deck 7.0 ft. from the northern side lot line, a play structure 4.9 ft. from the northern side lot line and 3.2 ft. from the rear lot line, and another play structure (trampoline) 6.9 ft. from the rear lot line and 6.6 ft. from the southern side lot line.

ZONING ORDINANCE REQUIREMENTS

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

The application must meet all of the following standards, copies of which are attached as Appendix 4:

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location (Sect. 8-914)
- Provisions for Reduction of Certain Yard Requirements (Sect. 8-922)

General Special Permit Standards (Sect. 8-006)

Staff believes that the application for the covered porch meets all of the General Special Permit Standards, particularly Standard 3. General Standard 3 requires that the "proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan." *Staff believes that the proposed covered porch addition will not adversely affect the neighboring properties*

since the proposed structure will be constructed to match the existing dwelling. The location of the addition at the front of the dwelling will not impact the use or development of adjacent properties. Staff believes this standard has been met.

Provisions for Reduction of Certain Yard Requirements (Sect. 8-922)

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 4 relates to additional square footage, which does not apply to this application. Standard 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. Staff believes that the application has met all of the remaining standards, specifically Standards 6, 7, 8, and 9.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. *The submitted plat and construction drawings indicate that the scale and materials of the proposed covered porch will be compatible to the existing dwelling. The length and width of the covered porch (approximately 26.5 feet by 6.5 feet) is proportional to the front of the house. The proposed height of the covered porch at approximately 12 feet is nearly half of the height of the dwelling. Staff believes this standard is satisfied.*

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. *The applicant proposes to replace an existing open deck and stairs and construct a covered porch at the front of the house. Some existing shrubs will be removed, and an existing concrete walkway in front of the house will remain. The covered porch will be built along the frontage of the house and will not extend past the eaves on the sides of the existing house. Staff believes this standard is satisfied.*

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. *The proposed covered porch will not adversely impact the use or enjoyment of the adjacent properties due to the lack of impact. The covered porch will be built away from the adjacent single family detached dwellings. Adequate light and air will be preserved due to the compatible scale of the covered porch to the house, and there are no anticipated impacts to noise, light, erosion and stormwater runoff. Staff believes this standard is satisfied.*

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of

the existing structure; availability of alternate locations for the covered porch; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. *The proposed location of the covered porch is the best possible location on the site. The existing dwelling was built in 1928 before the current Zoning Ordinance was adopted. The width (50 feet) and area (6,250 square feet) of the application site are less than current lot width and area standards at 70 feet and 8,400 square feet respectively for the zoning district, which limits the availability to expand the dwelling. From the front to the rear of the site, the grade also slopes downward. Staff believes this standard is satisfied.*

CONCLUSION

Staff believes that the request is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2012-PR-029 for an addition with adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2012-PR-029

July 18, 2012

If it is the intent of the Board of Zoning Appeals to approve SP 2012-PR-029 located at Tax Map 50-2 ((4)) 6 to permit a reduction of certain yard requirements pursuant to Sections 8-914 and 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location and size of the roofed porch, play structures and deck, as shown on the plat prepared by Alterra Surveys, Inc., dated February 20, 2012, revised through April 14, 2012 and sealed April 17, 2012, as submitted with this application and is not transferable to other land.
2. The roofed porch shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Phoenix Home Services
9141 Schoolcraft Lane
Burke, VA 22015
703-725-7945

No.	Revision / Issue	Date
01	Start Change	9-23-11

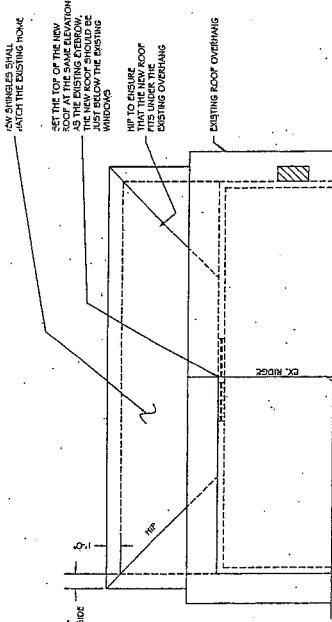
The Seaman Residence
2759 Marshall Street
Falls Church, VA 22042

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Department of Planning & Zoning
SEP 28 2011
Zoning Evaluation Section

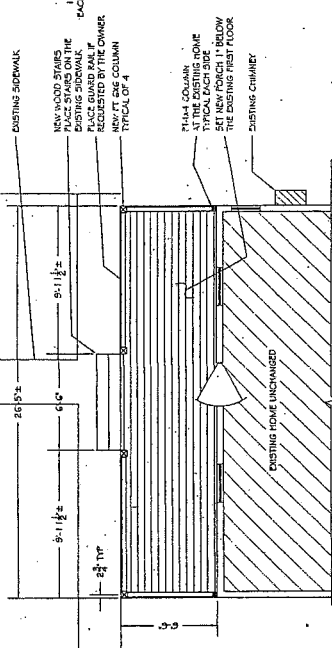
New Front Porch

A1

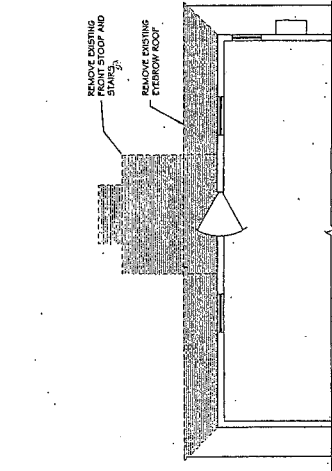
Drawn By: BAW
Date: 3-16-11
Scale: As Noted



Roof Plan
Scale: 1" = 1'-0"

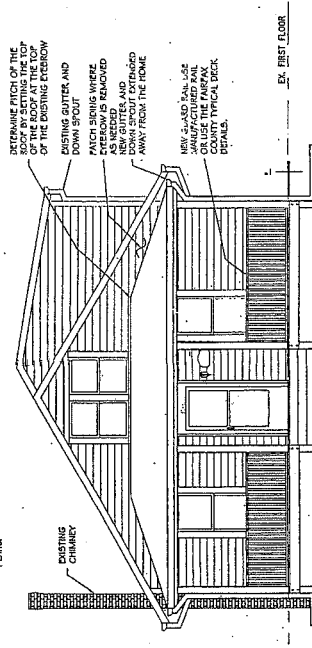


Front Porch Plan
Scale: 1" = 1'-0"

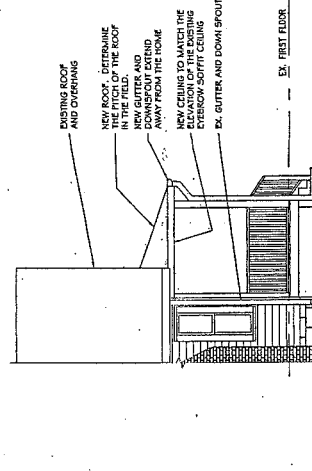


Demolition Plan
Scale: 1" = 1'-0"

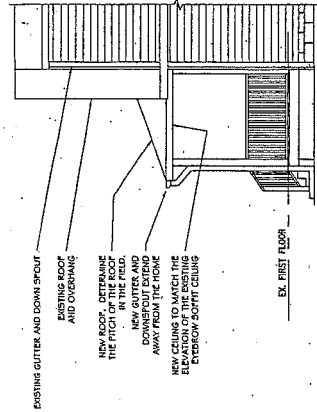
- NOTES:
1. CONSTRUCTOR SHALL LAYOUT TO THE STAIRS IN THE FIELD TO CONFORM TO THE VIRGINIA U.S.E.C. STAIRS ARE SHOWN IN THEIR APPROXIMATE LOCATION. CONSTRUCTOR SHALL VERIFY THE EXACT NUMBER OF RISERS AND TREADS AND ADJUST THE LAYOUT ACCORDINGLY.
 2. SEE THE FAIRFAX COUNTY TYPICAL DETAILS FOR ITEMS NOT SHOWN ON THESE PLANS.



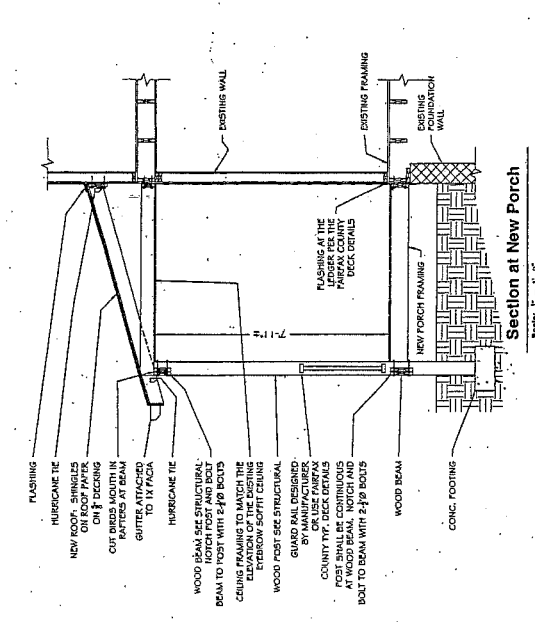
Left Elevation
Scale: 1" = 1'-0"



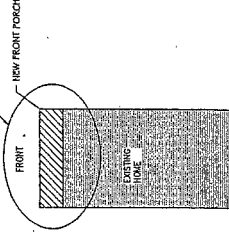
Front Elevation
Scale: 1" = 1'-0"



Right Elevation
Scale: 1" = 1'-0"



Section at New Porch
Scale: 1" = 1'-0"



Key Plan
Scale: NTS

Application No.(s): SP 2012-PR-029
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Sept. 14, 2011
 (enter date affidavit is notarized)

I, James W. Seaman, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

113523

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE:** All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
James W. Seaman	2759 Marshall St. Falls Church, VA 22042	Applicant/Title Owner
Gloria C. Seaman	2759 Marshall St. Falls Church, VA 22042	Applicant/Title Owner
Diane Horwitz	2995 Steven Martin Dr. Fairfax, VA 22031	Agent
Alexander Mandell	2995 Steven Martin Dr. Fairfax, VA 22031	Agent

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No(s): SP 2012-PR-029
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Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Sept. 14, 2011
(enter date affidavit is notarized)

113523

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
N/A

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2012-PR-029
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DATE: Sept. 14, 2011
(enter date affidavit is notarized)

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- 1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)
N/A

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s):

SP 2012-PR-029

(county-assigned application number(s), to be entered by County Staff)

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

Sept. 14, 2011

(enter date affidavit is notarized)

113523

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)
NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SP 2012-PR-029
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Sept. 14, 2011
(enter date affidavit is notarized)

113523

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on line below.)
NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☒ Applicant

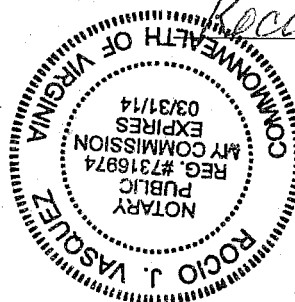
☐ Applicant's Authorized Agent

James W. Seaman, Applicant/Title Owner

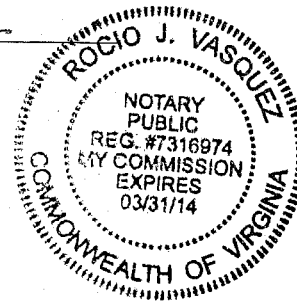
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 14th day of September 2011, in the State/Comm. of Fairfax, Virginia County/City of Fairfax.

My commission expires: 3-31-2014



Notary Public



REVISED STATEMENTS OF JUSTIFICATION

The following Statements of Justification are found herein:

1. This Special Permit application is a request for Reduction of Certain Yard Requirements for a new front porch according to Article 8-922. Pages 1 to 5 of the statement of justification will address each section of this article.
2. In addition, this application will address the reduction to the minimum side yard requirements based on an Error In Building Location to permit:
 - existing deck/steps to remain, according to Article 8-914,
 - the trampoline to remain in its current location, and
 - the playset to remain in its current location - see pages 6 through 11.

ATTACHMENTS

Attachment 1. Signed letters of approval from neighbors

Attachment 2. Permit and other relevant documents for deck and steps (Error in building location, second section of this justification)

REDUCTION OF CERTAIN YARD REQUIREMENTS ACCORDING TO ARTICLE 8-922

Description of New Front Porch Addition:

This is a proposal to replace the existing front stoop with a new, wider, covered front porch. The new porch will be in the same location on the house as the current front stoop. Following is a description of the proposed porch when emerging from the front of the house looking outside:

- The property at 2759 Marshall Street, built in the year 1928, is zoned R-4, with a front setback of 30 feet and side yard setback of 10 feet (which was established in 1978). We are requesting a <50% setback from the front and from the north side of the property for construction of a new open porch (not enclosed but roofed).
- The dimensions of the proposed porch will be approximately 26.5 feet x 6.5 feet and will be the same width as the house.
There will be 3 steps to the ground in the center front of the porch. The stairs will measure approximately 6.5 x 1.6 feet.
- **We are requesting a reduction of the front yard requirements to 15.8 feet.**
- The front of the house is currently 24.1 feet from the front property line (gutters and eaves are 22.1 feet from the line). If approved, the front of the proposed porch will be 15.8 feet from the front property line, which would require a 47% reduction in the required setback, including center stairs.
- **We are requesting a reduction of the side yard requirement to 7.8 feet.**
- The north side of the house is currently 9.4 feet from the property line (gutters and eaves are 8.6 feet from the line) on the right (North) side. If approved, the north side of the proposed porch will be 7.8 feet from the north property line, which would require a 22% reduction in the required setback.
- These home dimensions and setbacks were established when the home was built in 1928, before the current setback requirements were established.

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MAY 14 2012

May 18, 2012

Zoning Evaluation Division

- The proposed porch will be covered by a roof that will continue the roof-line on the house. Visible ceiling consists of painted white tongue and groove pine. Shingles on roof will match existing shingles on home.
- Gutters and downspouts from covered porch will exit on the ground level next to house;
- A white vinyl railing will extend around the entire porch, excluding the opening allowed for the center set of stairs.
- Four white, fiberglass columns will be located across the front (west) side of the porch. Two are located at the north and south corners of porch, two flanking the center stair opening.

As mentioned, the planned porch (including stairs) would be 15.8 feet from the front property line of our house, which is a 48% reduction of the allowed 30-foot setback. The setback on the North side of the home is a 22% reduction of the 10-foot setback requirement, less than 50%.

The proposed structure and use is in harmony with the general purpose and intent of the residential zoning regulations, as the front porch will be used for leisure time and family activities. The roof over the porch will allow the area to be accessible during times of adverse weather, enabling us to sit outside during a rainstorm and take wet shoes off outside of the house. There will be no adverse effect on the use or development of the neighboring properties, and the location and height of the front porch will be architecturally pleasing and similar to what is currently in place in some neighboring properties. There will be no effect on pedestrian or vehicular traffic, as the porch is on the property well away from the street. The front porch fits the general standards for a special permit pursuant to Section 8-006.

Neighbors living in the immediate vicinity of our house have been given a description and drawing of the porch, along with an example of a neighbor's similar porch, as a courtesy and to obtain their approval. Some of the neighbors have returned the document as of this time (Attachment 1).

The proposed front porch also satisfies the requirements of Section 8-922 as shown below.

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.

This applies to 2759 Marshall St., Falls Church, VA 22042, the property of interest.

- B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.

Not applicable, as there is no pipestem on this property or involved in the permit.

- B. Accessory structure location requirements set forth in Sect. 10-104.

Not applicable, as this is not an accessory structure.

- D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412. Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not

result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

The requested reduction does not result in a 50% reduction of the requirement (front of structure is 15.8 feet from front property line and front setback requirement is 30 feet; north side of structure is 7.8 feet from side property line and side setback requirement is 10 feet).

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.

Not applicable, as the special permit relates to a front porch that is attached to the front of the home.

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.

2759 Marshall St. was constructed in 1928 with a front setback of 24.1 feet and 8.6 feet on the north side. The house was constructed well before the current setback requirement of 30 and 10 feet were established for front and side setbacks, respectively.

4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Below are the values for current and proposed gross floor area, using only the area of the footprint of the house, as well as using both floors of the house (the basement is not finished, it is a 1 1/2 story dwelling).

	square foot area
House floor area	1734
Proposed porch	172
Floor area of proposed porch as a proportion of the existing dwelling	9.9%
Current Floor Area Ratio (FAR on plat)	0.277
Proposed FAR	0.305

The ratio of the proposed to the existing gross floor area for the footprint is 109.9% of the total gross floor area of the principal structure that existed at the time of the yard reduction request if the footprint only is used. The increase is less than the limit of 150% of the total gross floor

area.
<p>5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.</p> <p><i>This is true – the front porch is subordinate to the intended use of the house.</i></p>
<p>6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.</p> <p><i>The location of the proposed porch is to replace a smaller stoop currently in place, the height of the proposed roof on the porch will not exceed the height of the lowest point of the roof of the house, the width of the porch itself will not exceed the width of the house. The style of the proposed front porch will blend with the style of the house, and the shingles on the roof of the porch will match those currently on the roof of the house.</i></p>
<p>7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.</p> <p><i>No vegetation will be destroyed with the proposed porch.</i></p>
<p>8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.</p> <p><i>The porch will not negatively impact any of the above issues as it is narrow and attached to the house. Homeowners plan quiet activities such as reading while on the porch. The rain gutters will capture rain water as it does from the roof of the main house. No effect on any of the issues noted above are reasonably expected.</i></p>
<p>9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.</p> <p><i>The proposed porch is in the same location as the current stoop and will not affect any of the above.</i></p>
<p>10. The BZA may impose such conditions, as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.</p> <p><i>This is understood.</i></p>
<p>11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect,</p>

or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.

B. Total area of the property and of each zoning district in square feet or acres.

C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.

E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.

F. Means of ingress and egress to the property from a public street(s).

G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

H. If applicable, the location of a well and/or septic field.

I. Existing and proposed gross floor area and floor area ratio.

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. The location, type and height of any existing and proposed landscaping and screening.

L. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

The plat is attached with all of the required details. There is one (1)-8x10 and fifteen (15)-11x17 inch sized copies.

12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.

Architectural depictions of the front porch are found attached to this application on a large rolled sheet prepared by the Engineer.

**ERROR IN BUILDING LOCATION TO PERMIT EXISTING DECK/STEPS AND
ACCESSORY STRUCTURES TO REMAIN, ACCORDING TO ARTICLE 8-914**

There is an error in building location, which we have addressed according to Article 8-914 as shown below.

Explanation of Three Errors:

(1) A back deck and patio was commissioned by the homeowner to be built in the year 2007. The deck was built by a contractor, Armor Fence LLC, and Permit Number 72430056 (attached) was obtained from Fairfax County prior to construction. The deck and attached stairs leading to the deck were part of that construction project. The stairs are 4 feet from the North side of the property line. The deck is 6 feet from the North side of the property line. The homeowner was not aware that these stairs or deck were too close to the side property line until the time of the current application for a Special Permit (for a new front porch).

(2) There is an existing trampoline structure (an accessory structure with a deck 3 feet from the ground, and the top of the safety nets at 10 feet above the ground) be permitted to remain in its current location, which is 6.9 feet from the rear property line and 6.6 feet from the side property line. The trampoline has been in this location since it was purchased, without knowledge that it was too close to the side and rear lot lines. The main part of the trampoline is at 3 feet above the ground, and the trampoline is largely obscured by foliage. We request that this trampoline be permitted to remain in this location, since the surface of the ground has been modified to allow a level trampoline.

(3) There is an existing playset (an accessory structure with a covered platform, 3.6' x 5.8' and a slide). The playset was placed in the rear of the lot and the slide extends 4.9' from the side property line and 4.9' from the rear property line. The playset currently is 8' tall (the tent covering the deck) but can be extended to 9.5' tall maximum. This playset is for the use of the grandchildren and has been in place for many years. We request that the playset be allowed to remain in its current location.

Attached are the following documents to assist in your review (Attachment 2):

1. Fairfax County Building permit application
2. Copy of Drawing of Deck with cost estimate
3. Fairfax County Rear Deck Final Approval (inspection Oct. 11, 2007)

According to Article 8-914, the BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed or any accessory structure that does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

A new plat has been drawn, and the plat contains the following information:

A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district. – SHOWN ON PLAT

B. Total area of the property and of each zoning district in square feet or acres. TOTAL AREA OF THE PROPERTY IS SHOWN ON THE PLAT

C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics. SHOWN ON PLAT

D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures. SHOWN ON PLAT

E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines. SHOWN ON PLAT

F. Means of ingress and egress to the property from a public street(s). YES

G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s). NOT APPLICABLE

H. If applicable, the location of well and/or septic field. NOT APPLICABLE

I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses. NOT APPLICABLE

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width. NOT APPLICABLE

K. Seal and signature of professional person certifying the plat. SHOWN ON PLAT

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA determines that:

A. The error exceeds ten (10) percent of the measurement involved, and

The error in the minimum side yard requirement exceeds 10% of the measurement involved. The side yard requirement is 10 feet and the stairs are 4 feet from the property line, and the deck is 6 feet from the property line. Both the stairs and the deck error exceed 10% of the side yard requirement.

In the case of the two accessory structures:

For the trampoline, the side yard requirement is 10 feet and the trampoline is 6.6' from the property line. The rear yard requirement is 10' and the trampoline is 6.9' from the rear property line.

For the playset, the side yard requirement is 10 feet and the slide of the playset is 4.9' from the property line. The rear yard requirement is 10' and the trampoline is 6' from the rear property line.

- B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

The property owner obtained a permit from the county as required, the property owner had a contractor build the deck and stairs, and also had a final inspection and approval by Fairfax County (Attachment 2). The property owner was completely unaware that there was a problem with their deck and stairs, and they thought that they were in compliance with the building code and county requirements. The noncompliance was done in good faith and through no fault of the property owner.

In the case of the two accessory structures, the structures were placed without any realization that there could be a problem with the placement of the structures.

- C. Such reduction will not impair the purpose and intent of this Ordinance, and

The reduction in minimum yard requirements will not impair the purpose of this zoning ordinance, which is intended to ensure that land use is compatible with planned development in the general area. Even though the steps and deck were built in error because they are too close to the side yard property line, the position of the structure does not impair the use of this property as a single-family residence dwelling.

- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

The stairs and deck that were built in error are not in any way detrimental to the use of the property immediately adjacent to the home on which they boarder. The property owners have a very good relationship with their next-door neighbors, who moved in to the home after the deck was there. Also note that the steps are at the ground level and are not visible to the neighbors.

The accessory structures are rarely used by grandchildren, and the neighbors do not have a problem with their placement.

- E. It will not create an unsafe condition with respect to both other property and public streets, and

The only property that is next to the steps and deck that were built in error is a property belonging to a neighbor who moved in to the house after the deck was built. The steps are well lit with accessory lighting and are inside the property line at ground level and do not cause any unsafe condition either on the property where they are located or on the adjacent property. The steps and deck will not create an unsafe condition which we said two other property or public streets.

- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

Removal of the steps and portion of the deck that are in error would be an extremely expensive project and would be extremely financially burdensome and unreasonable for the homeowner to try to accomplish. The deck is part of a larger structure and it would be almost impossible to reconstruct the deck so that it would be within the minimum yard requirements. Also, the homeowner built the deck and steps to the specification and approval of Fairfax County.

Regarding the accessory structures, the ground was leveled and tailored to the placement of the structures and it would be very difficult to move them at this time.

- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

The request for redemption to the minimum yard requirements will not increase the density or floor area ratio from what is permitted in the zoning regulations.

Attachment 1. Signed letters of approval from neighbors

PROPOSED FRONT PORCH PLANS AND REQUEST FOR SIGNATURE
2759 Marshall St., Falls Church, VA 22042
September 28, 2011

Hello! We are planning to replace our front stoop with a covered porch that will extend across the front of the house. We would like to tell you about our plans, and ask you to please sign this form stating that you do not object to the new porch.

DESCRIPTION OF COVERED PORCH: The front porch will be 26 ft. wide (the width of the house), with one set of stairs that come down from the front towards the street. The front porch will be covered with a roof that extends from the current roof-line of our house. The porch will only be as wide as the house, and will not be any closer to the sides of the property than the house is currently, and the porch will not be closer to the street than the current stoop is.

We are asking your acceptance of our plans because we require a special permit to do this. We are required to submit an application to the Zoning Evaluation Division of Fairfax County for a Special Permit Application, since the porch will end about 16 feet from the road (instead of the 30 foot setback in the neighborhood's zoning). Since the zoning has changed since the house was built, we need a Special Permit.

We are attaching drawings of the proposed porch (Figure 1) and a photo of a neighbor's porch that we like and that features a design similar to ours (Figure 2).

Please sign below if you agree that our plans are acceptable. Please call or email if you have questions or concerns. Thank you very much in advance!

- James and Gloria Seaman

STATEMENT: My signature below means that I do not object to the construction of this porch on the front of the Seaman house at 2759 Marshall St., Falls Church, VA 22042.

<i>Arlene Wagner</i>	ARLENE WAGNER	9-30-2011	2760	OWNER
Signature <i>Arlene Wagner</i>	Printed Name <i>Arlene Wagner</i>	Date <i>9-30-2011</i>	Street No. (Marshall St.)	Owner or Renter

RECEIVED
Department of Planning & Zoning

MAR 07 2012

Zoning Evaluation Division

PROPOSED FRONT PORCH PLANS AND REQUEST FOR SIGNATURE
2759 Marshall St., Falls Church, VA 22042
September 28, 2011

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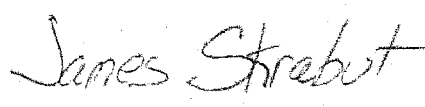

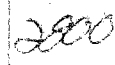
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- James and Gloria Seaman

STATEMENT: My signature below means that I do not object to the construction of this porch on the front of the Seaman house at 2759 Marshall St., Falls Church, VA 22042.

				
Signature	Printed Name	Date	Street No. (Marshall St.)	<u>Owner</u> or Renter

RECEIVED
Department of Planning & Zoning

MAR 07 2012

Zoning Evaluation Division

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2759 Marshall St., Falls Church, VA 22042
September 28, 2011

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Please sign below if you agree that our plans are acceptable. Please call or email if you have questions or concerns. Thank you very much in advance!

- James and Gloria Seaman

STATEMENT: My signature below means that I do not object to the construction of this porch on the front of the Seaman house at 2759 Marshall St., Falls Church, VA 22042.

<i>Kelly Cappio</i>	Kelly Cappio	Oct 3, 2011	2761	owner
Signature	Printed Name	Date	Street No. (Marshall St.)	Owner or Renter

RECEIVED
Department of Planning & Zoning
MAR 07 2012
Zoning Evaluation Division

Attachment 2. Permit and other relevant documents for deck and steps (Error in building location, second section of this justification)

1. Fairfax County Building permit application
2. Copy of Drawing of Deck with cost estimate
3. Fairfax County Rear Deck Final Approval (inspection Oct. 11, 2007)

RECEIVED
Department of Planning & Zoning
MAR 07 2012
Zoning Evaluation Division

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Fairfax County, Virginia
Department of Public Works and Environmental Services
Permit Application Center
12055 Government Center Parkway
Fairfax, Virginia 22035-5504

DECK

Permit Number: 72430056

Issue Date: 08/31/2007

Tax Map ID: 050-2 / 04 / 0006

Job Address: 2759 Marshall St
Falls Church, VA22042-2002

Plan No: N-07-6669

Issued To:

Contractor:

SEAMAN GLORIA C SEAMAN JAMES W
2759 Marshall St
Falls Church, Va 22042
(703)909-9945

ARMOR FENCE LC
8665 Sudley Rd #292
Manassas, Va 20110-0000
(703) 361-1141

Mechanic's Lien Agent: None Designated

Structure: SINGLE FAMILY DWELLING

Code:(2003 USBC): 2003 IRC

GROUP: R5

Type of Construction: VB

HAS PERMISSION, ACCORDING TO APPROVED PLANS, APPLICATION AND RESTRICTIONS OF RECORD
TO: BUILD DECK WITH STEPS NO HOT TUB PER CNTY DETAIL

Deck Summary Information

Deck construction must comply with Fairfax County Typical Deck Details.
Deck Must be Single Span Only
Deck Stairs Approved
Not Approved for Hot Tub

Site Related Approval Conditions and Alerts

- Footings and Piers must be placed on competent material.

Zoning Related Approval Conditions and Alerts

*OPEN DECK APPROVED: No Privacy Screening, Lattice, Plant Hanger, Trellis or Arbor.
Nothing above the rail and nothing below the deck flooring.*

72430056

050-2

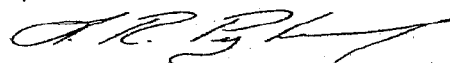
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Note to Property Owner: In accordance with Chapter 102 of the Code of the County of Fairfax, the property address must be displayed on the property in such a manner as to be visible from the public right of way. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

Prior to beginning construction, contact your Homeowners' Association regarding any restrictive covenants governing property improvements. Sometimes, covenants may be more restrictive than the Fairfax County Code. Furthermore, requirements of covenants are not addressed by the issuance of your building permit.

The permittee is required to notify all utilities before commencing any underground construction and must receive the proper clearances from the utilities as prescribed in the Code of the County of Fairfax. (Miss Utility - 1-800-257-7777)

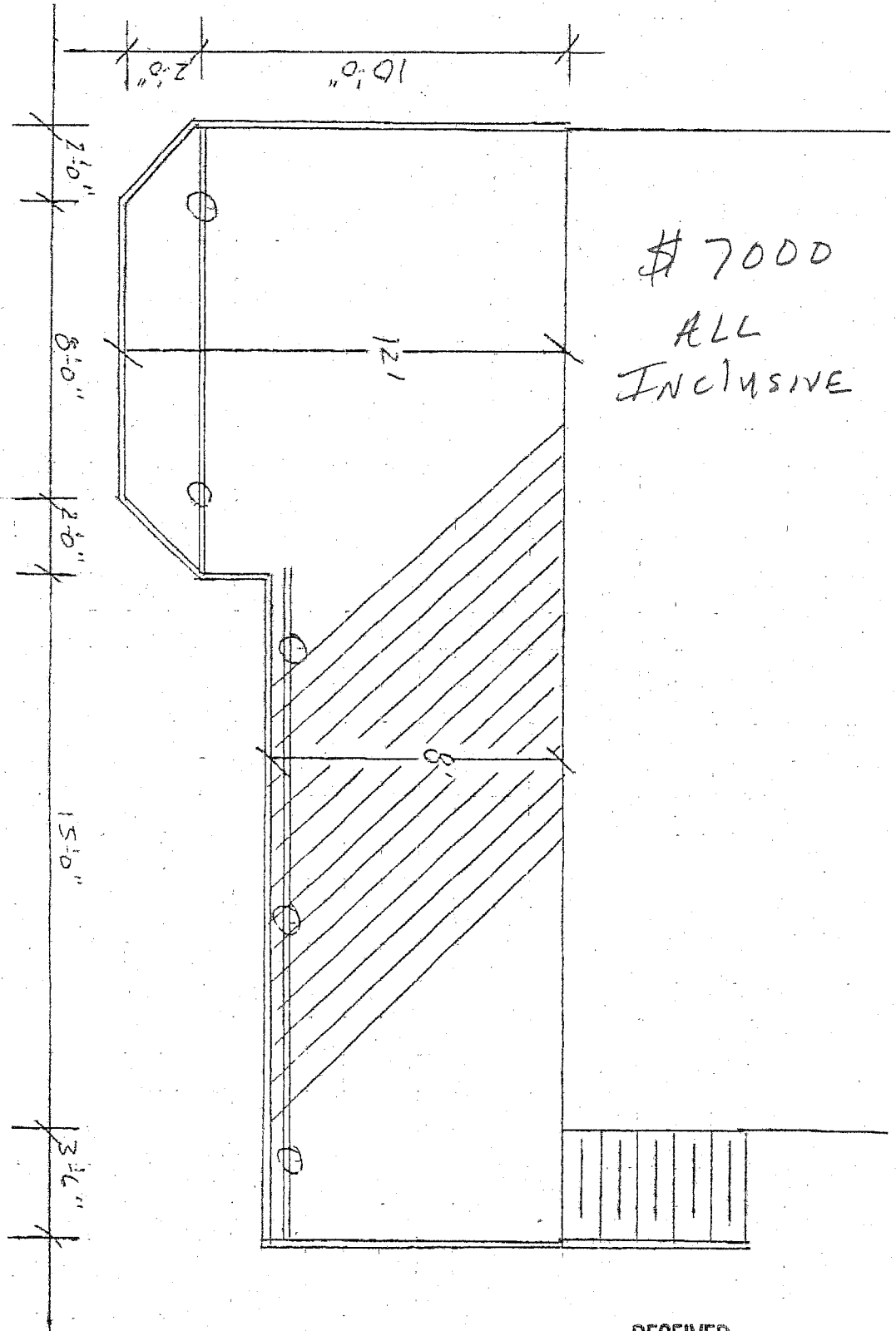
BUILDING OFFICIAL



To Schedule an Inspection:

**Internet - www.fairfaxcounty.gov/fido
Call Center - 703-222-0455**

**AIRS - 703-222-2474
TTY, VA Relay - 711**



7000
ALL
INCLUSIVE

OPEN DECK FOOTPRINT
APPROX 2887
114" = 1'

RECEIVED
Department of Planning & Zoning

MAR 07 2012

Zoning Evaluation Division

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MAR 07 2012
Zoning Evaluation Division

ZONING ORDINANCE PROVISIONS

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for all Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.

2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Accessory structure location requirements set forth in Sect. 10-104.
 - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the

time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage.

5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.
10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.
11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of a well and/or septic field.
 - I. Existing and proposed gross floor area and floor area ratio.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.